

**FINAL REPORT  
OF THE  
INTERIM STUDY COMMITTEE ON  
CRIMINAL JUSTICE ISSUES**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**October, 1999**

# INDIANA LEGISLATIVE COUNCIL

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# INTERIM STUDY COMMITTEE ON CRIMINAL JUSTICE ISSUES

## Membership Roster

### Representatives

Michael Dvorak, Chairperson  
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### Staff

Timothy Tyler  
Attorney for the Committee

Mark Bucherl  
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

## **I. LEGISLATIVE COUNCIL DIRECTIVE**

The Legislative Council directed the Committee to do the following:

- (1) Study issues relating to the incarceration of youth offenders, particularly their separation from adult offenders while in custody.
- (2) Study educational programs available to youthful offenders while incarcerated.
- (3) Study Indiana sentencing policy.
- (4) Study child abuse issues, including the reporting of suspected child abuse, the role of law enforcement officers in child abuse cases, and the protective and family services available to victims of child abuse and their families.

## **II. INTRODUCTION AND REASONS FOR STUDY**

1. The basis for studying issues relating to the incarceration of youth offenders was SCR 31-1999 and SB 577-1999 introduced by Senator Charles Meeks.
2. The basis for studying educational programs available to youthful offenders while incarcerated was SB 577-1999 introduced by Senator Charles Meeks.
- (3) The basis for studying Indiana sentencing policy was HB 1770-1999 introduced by Representative Crawford.
- (4) The basis for studying child abuse issues was SB 529-1999, SCR 48-1999, and SCR 6-1999 introduced by Senator Miller and HR 30-1999 introduced by Representative Becker.

## **III. SUMMARY OF WORK PROGRAM**

The Committee met three times in the State House during the interim.

At the Committee's first meeting on August 25, 1999, the Committee heard testimony on and discussed issues relating to the incarceration of youth offenders and sentence modification.

At the Committee's second meeting on September 28, 1999, the Committee heard testimony on and discussed issues relating to Indiana sentencing policy and incarceration of youthful offenders, including issues concerning educational and other programs available to incarcerated youthful offenders.

At the Committee's third meeting on October 26, 1999, the Committee heard testimony on and discussed issues relating to sentence modification and child abuse and discussed the inclusion of findings and recommendations in the Committee's Final Report.

## **IV. SUMMARY OF TESTIMONY**

### **INCARCERATION OF YOUTHFUL OFFENDERS**

Senator Charles Meeks made the following points:

- \*Many people feel the required "sight and sound" separation of juveniles incarcerated in local jails amounted to an unfunded mandate imposed on local governments.

- \*While there is good data pertaining to juveniles housed in Department of Correction (DOC) facilities, more data needs to be gathered from local jails concerning the housing and treatment of juvenile offenders.

- \*It may be necessary to create and fund a "Third Tier" of the juvenile justice system that would provide an alternative to incarcerating juveniles in local jails or DOC facilities.

Representative Vernon Smith made the following points:

- \*Adult offenders are concerned about the "attitude problems" of teenagers with which they are incarcerated and they are also concerned about safety issues involving juvenile offenders housed with adult offenders.

- \*While the DOC is supposed to house juveniles in a separate environment away from adult offenders, he knew of a young man who had turned 16 while incarcerated with adult offenders at the DOC facility in Pendleton.

DOC Commissioner Edward Cohn made the following points:

- \*Concerning juveniles in adult prisons, on September 27, 1999, there were 72 juvenile offenders under the age of 18 committed as adults to the DOC. Sixty-eight of these juveniles were male and housed in several DOC facilities around the state and four were female and housed at the Indiana Women's Prison in Indianapolis.

- \*Concerning separation of these juveniles from adult offenders, the juveniles are not out of the "sight and sound" of the adults. A juvenile is classified and placed in a facility based on the juvenile's security classification and specific needs. It would cost approximately \$19,200,000 to construct a separate facility to house 160 of these juvenile offenders. It may be possible to come up with lower cost alternatives.

- \*When classifying a juvenile, the nature of the juvenile's offense, the juvenile's physical and psychological demeanor, and any special programs the juvenile may need access to are all taken into consideration. However, public safety is always the most important factor in the classification process. Inmates can be reevaluated and reclassified after entering the DOC system.

- \*Concerning education programs, the DOC is meeting the education needs of juvenile offenders. Each DOC facility has its own education programs but each facility does not offer every DOC education program available. Literacy, Adult Basic Education, and General Educational Development programs are the most important DOC education programs. DOC education programs are not mandatory. The DOC prefers that juvenile offenders enter some education program, but forcing someone into a program that he or she did not want to be in could be disruptive to other students. While some juveniles might not be psychologically prepared to enter an education program when they first enter

a DOC facility, the DOC attempts to get them into some program before they are released.

\*Concerning developmental treatment programs, every DOC facility has psychological and psychiatric staff available. Inmates are evaluated when entering DOC facilities to determine any medical, social service, or psychological treatment the inmate may need.

\*Concerning special education programs, the DOC does provide these programs. When offenders enter the DOC system, they are given a screening test to determine if they qualify for a special education program.

\*Concerning mental status examinations, a DSM IV diagnosis or assessment is conducted on every juvenile offender prior to placement in a DOC facility.

\*Concerning mandatory substance abuse or mental health services for juvenile inmates, these services are provided if they are needed or requested. The need for these services exceeds the number of DOC staff available to provide them. Priority is given to those inmates who have the least amount of time left to serve in a DOC facility.

\*Concerning transition programs, these programs are in effect but there should be more. There is a greater need for post-incarceration assistance.

\*Concerning data about recidivism rates and about the number and types of crimes juveniles commit after they have been incarcerated as or with adults, the DOC has done a survey involving about 30% of the files of juvenile offenders in DOC facilities. The number and types juvenile exposures to the criminal justice system, including apprehensions by law enforcement officers "[ran] the gamut." Many younger offenders have already had numerous contacts with the juvenile and criminal justice system while many older offenders have had only one contact.

\*Concerning HIV treatment, any inmate who is known to be HIV positive is treated with all drugs approved by the federal Food and Drug Administration. The DOC works with the State Department of Health to provide continuing care for HIV positive inmates after they are released by the DOC.

\*Concerning pregnant juvenile offenders, IC 11-10-2-2 forbids a pregnant delinquent offender from being committed to the DOC. Adult women are placed in the Indiana Women's Prison and receive both prenatal and postnatal care. These women also receive child care skills classes during their incarceration.

\*The DOC currently houses approximately 600 inmates in Oklahoma that they are trying to have transferred to correctional facilities in Kentucky and they house two inmates in Virginia. These other states receive \$45 per day per inmate under the contract they have with the DOC. This compares to \$35 per day per inmate that county jails receive for housing DOC inmates. The DOC does not have actual contracts with sheriffs concerning the \$35 per day per inmate payments.

\*Concerning the Community Transition Program, the DOC is not responsible for an inmate after the DOC delivered the inmate to a county. The DOC "didn't develop the

[Community Transition Program] bill, the legislature did." The DOC is only implementing what the legislature passed. The DOC will work with this amount for the present time and reevaluate it later.

\*An individual with a substance abuse problem who has not committed any related crime could be incarcerated in a hospital setting. This would get the individual off the street but also provide them with a treatment program.

William Glick, Executive Director of the Indiana Juvenile Justice Task Force, made the following points:

\*Waiving juveniles into adult court often results in unintended consequences. It makes juveniles more likely to commit subsequent crimes. Studies have shown juveniles who came out of the adult criminal justice system recidivate six times faster than juveniles who stayed in the juvenile justice system.

\*Indiana needs to conduct a thorough and coordinated examination of juvenile justice issues.

\*Indiana currently lacks a unified youth authority.

\*Indiana must come up with other options besides detaining juveniles in juvenile facilities or incarcerating them with adults. A Third Tier form of confinement between detention and incarceration is a viable option.

\*Juvenile judges and probation officers have a limited range of choices when dealing with chronic violent juvenile offenders. The Third Tier option is designed for this kind of juvenile offender. The caseloads and responsibilities of probation officers should be decreased and more early intervention programs should be established.

Professor Crystal Garcia, Indiana University School of Public and Environmental Affairs at Indiana University-Purdue University at Indianapolis, made the following points:

\*Separating juveniles from adults is "crucial" since most juveniles will eventually be released and they shouldn't be "worse off than when they went in."

\*"Major strides" have been made in reducing juvenile crime since 1995. Public safety should always come first, but locking juveniles up with adults is not the only option when dealing with juvenile offenders.

\*A Third Tier form of detention is a viable option. Even if a juvenile is initially placed in a Third Tier setting, they could subsequently be moved to an adult facility at an older age if necessary.

\*"After care" programs that are crucial to reintegrate juvenile offenders into society are underfunded.

Tippecanoe County Sheriff David Murtaugh, President of the Indiana Sheriffs' Association, made the following points:

\*In Tippecanoe County, juveniles that are arrested are kept in a room that is separated from adult offenders before they are transferred to a juvenile facility.

\*Once a juvenile has been adjudicated a delinquent and sent to the jail, every attempt is made to separate the juvenile from the general population, but overcrowding at the jail makes this separation difficult.

\*Tippecanoe County has several educational and religious programs available for county jail inmates.

\*Only 58 of the 92 counties in Indiana have community corrections programs and these programs vary from county to county.

Roger Madden, a former police officer and member of "Fathers United for Visitation Enforcement," made the following points:

\*The Committee should study the causes of juvenile crime and focus on preventing children from entering the criminal justice system.

\*Several child support enforcement agencies have started faith based restoration programs.

#### INDIANA SENTENCING POLICY

Representative William Crawford made the following points:

\*If HB 1770, a bill he introduced during the 1999 Session of the Indiana General Assembly, had passed, it would have established a sentencing policy study committee to evaluate sentencing laws and policies in Indiana as they relate to the purposes of the criminal justice and corrections systems, the availability of sentencing options, and the inmate population in DOC facilities.

\*There has been a pronounced increase in DOC operating costs caused mostly by the construction of several new DOC facilities.

\*An Ohio plan called "RECLAIM Ohio" has allowed Ohio to control rising juvenile justice costs while not sacrificing public safety.

\*While the Indiana system may not need to change, it should be examined to determine if the system needs improvements.

\*The sentencing policy study committee described in HB 1770 could only make recommendations to the General Assembly concerning sentencing policy and would not have any power to implement changes on its own.

Larry Landis, Executive Director of the Indiana Public Defender Council, made the following points:

\*The Council supported HB 1770 in 1999 and still thought a sentencing policy study was



a good idea.

\*Indiana sentencing laws have been amended "piecemeal" over the last 20 years which has resulted in serious proportionality problems between sentences imposed for different crimes.

\*The war on drugs, which resulted in much harsher sentences for drug offenses, has caused prison overcrowding problems.

Steve Johnson, Executive Director of the Indiana Prosecuting Attorney's Council, made the following points:

\*The Council supported HB 1770 in 1999 for the same reasons stated by Larry Landis.

\*It should be determined if Indiana needs to construct more correctional facilities to address overcrowding problems.

### CHILD ABUSE ISSUES

Representative Vaneta Becker made the following points:

\*There are statewide problems concerning child abuse that are resulting in the deaths of many children. Anything the Committee could do to improve this situation would be welcomed.

\*First it is important to determine how changes made during the 1999 legislative session are affecting child abuse issues before any additional changes are made.

Carole Davis, founder of Children Hostages in Life's Derangement (C.H.I.L.D.) made the following points:

\*The Committee should audit the money and children involved in the fraudulent "welfare/judicial system" and prepare legislation that focuses on measures to prevent child maltreatment.

\*Legislation is needed to require the investigation of all aspects of "child maltreatment" in Indiana.

\*Many children get "lost in the system" due to such problems as turf battles between various agencies.

\*There was a 41% increase in child deaths in Indiana last year due to abuse and neglect. Continuing problems with child abuse were due to ignorance and indifference.

\*An ombudsman for children should be established.

Sue Hanna, a private investigator and polygraph examiner from Evansville, Indiana, made the following points:

\*She has been involved in child sexual abuse issues and has developed guidelines for a program involving polygraph monitoring of sex offenders.

\*The program is not a cure but a method of control that allowed families to stay together while the offender was receiving treatment. Some states have adopted these programs through legislation.

\*These monitoring programs make offenders accountable.

## SENTENCE MODIFICATIONS

Larry Landis, Executive Director of the Public Defender Council, made the following points:

\*The current sentence modification statute only allows a sentencing judge to modify a sentence for up to one year after the sentence is imposed without the prosecutor's consent. After one year, the prosecutor must consent to any sentence modification. It is almost always a political liability for a prosecutor to agree to a sentence modification.

\*The sentence modification statute should be amended to allow a sentencing judge to modify a sentence at any time without the prosecutor's consent. While the prosecutor should be allowed input into the decision, the power to modify a sentence should be "squarely on the shoulders of the judge" where it belongs.

\*Since Indiana does not have a parole board with discretionary parole powers, the sentencing judge should always have the authority to modify any sentence that was imposed by the judge unless the judge is prohibited from modifying the sentence as a result of a plea agreement. A "ceiling" of more than one year would still be better than the current system.

Steve Johnson, Executive Director of the Indiana Prosecuting Attorneys Council, made the following points:

\*The Board of Directors of the Council opposes the proposed amendments to the sentence modification statute.

\*There are currently other ways for an inmate to reduce his or her sentence, including the use of "good time" credit and the use of credit time earned for the successful completion of educational and vocational programs and drug and alcohol abuse programs.

## **V. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Committee did not make any findings or recommendations.

## WITNESS LIST

Representative Vaneta Becker, Evansville

Commissioner Edward Cohn, Indiana Department of Correction

Representative William Crawford, Indianapolis

Carole Davis, Children Hostages in Life's Derangement (C.H.I.L.D.)

Professor Crystal Garcia, Indiana University School of Public and Environmental Affairs,  
Indiana University-Purdue University at Indianapolis

William Glick, Executive Director, Indiana Juvenile Justice Task Force

Sue Hanna, Evansville, Indiana

Steve Johnson, Executive Director, Indiana Prosecuting Attorneys Council

Larry Landis, Executive Director, Indiana Public Defender Council

Roger Madden, Fathers United for Visitation Enforcement

Tippecanoe County Sheriff David Murtaugh, President, Indiana Sheriffs' Association